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November 21, 2014

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Dover Corporation
Corporation Service Company – Lawyers Incorporating Service
Agent for Service of Process
2710 Gateway Oaks Dr., Ste 150N
Sacramento, CA 95833

Dover Corporation
Robert A. Livingston, CEO
3005 Highland Parkway, Suite 200
Downers Grove, IL 60515

Wilden Pump & Engineering
Robert Miller, Facility Operator
22069 Van Buren St.
Grand Terrace, CA 92313

RE: Notice Of Violations And Intent To File Suit Under The Federal Water Pollution Control Act Concerning Wilden Pump & Engineering, 22069 Van Buren St., Grand Terrace, California, WDID No. 8 36I014030

Dear Mr. Livingston and Mr. Miller,

The Law Office of Gideon Kracov (hereinafter "**Office**") on behalf of the Center for Community Action and Environmental Justice (hereinafter "**CCAEJ**") is contacting you concerning Clean Water Act (hereinafter "**CWA**" or "**Act**") violations at the Wilden Pump & Engineering's facility at 22069 Van Buren St., Grand Terrace, California 92313 (hereinafter "**Facility**"). This letter is being sent to you, Dover Corporation, Wilden Pump & Engineering, Robert Livingston and Robert Miller, as the responsible owners, officers, or operators of the Facility (collectively hereinafter "**Wilden Pump**").

CCAEJ is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCAEJ has individual members living in the community adjacent to the Facility and the Santa Ana River Watershed. CCAEJ

and its individual members are deeply concerned with protecting the environment in and around their communities, including the Santa Ana River Watershed.

This letter addresses Wilden Pump's unlawful discharge of pollutants from the Facility through the San Bernardino County municipal storm sewer system into Gage Canal and then into the Santa Ana River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System (hereinafter "**NPDES**") Permit No. CA S000001, California State Water Resources Control Board (hereinafter "**State Board**") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "**General Permit**").[1] The WDID identification number for the Facility listed on documents submitted to the California Regional Water Quality Control Board, Santa Ana Region ("Regional Board") is 8 36I014030. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the CWA requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency (hereinafter "**EPA**"), and the State in which the violations occur.

As required by the Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Wilden Pump is hereby placed on formal notice by CCAEJ that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CCAEJ intends to file suit in federal court against Wilden Pump under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the CWA and General Permit. These violations are described more extensively below.

I. BACKGROUND.

Wilden Pump filed a Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (hereinafter "**NOI**") and that NOI can be viewed on the State of California's State Water Resources Control Board website. In its NOI, Wilden Pump certified that the Facility is classified under SIC Code 3561 (Pumps and Pumping Equipment). Wilden Pump manufactures and sells air-operated-double-diaphragm pumps. The company offers metal and plastic pumps and accessories for various fluid transfer applications in ceramic, chemical, dry powder, mining, sanitary, waste treatment, oil and gas,

[1] On April 1, 2014, the State Board reissued the General Permit, continuing its mandate that industrial facilities implement the best available technology economically achievable ("BAT") and best conventional pollutant control technology ("BCT") and, in addition, establishing numeric action levels mandating additional pollution control efforts. State Board Order 2014-0057-DWQ. The new permit, however, does not go into effect until July 1, 2015. Until that time, the current General Permit remains in full force and effect.

paint, pulp and paper, semiconductor, plating and finishing, and biopharm industries. On information and belief, CCAEJ alleges that Dover Corporation is the corporate parent, successor or owner of Wilden Pump. On information and belief, CCAEJ alleges that the Facility collects and discharges storm water from its industrial site into four or more storm drain outfalls located at the Facility. The outfalls discharge into the San Bernardino County municipal storm sewer system, which flow into Gage Canal and then the Santa Ana River.

The Regional Board has identified beneficial uses of the Santa Ana River Watershed and established water quality standards for the river and its tributaries in "The Water Quality Control Plan (Basin Plan) for the Santa Ana River Basin" (hereinafter "**Basin Plan**"). *See* California Regional Water Quality Control Board, Santa Ana Region, The Water Quality Control Plan (Basin Plan) for the Santa Ana River Basin (2011), *available at* http://www.swrcb.ca.gov/rwqcb8/water_issues/programs/basin_plan/index.shtml.

The beneficial uses of these waters include, among others, municipal and domestic supply, agricultural supply, groundwater recharge, water contact recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat, and wildlife habitat. The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible." *Id.* at 3-3. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." *Id.* Contact recreation use includes fishing and wading. *Id.* at 3-2. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people's use of the Santa Ana River for contact and non-contact water recreation.

The Basin Plan includes a narrative toxicity standard which states that "[t]oxic substances shall not be discharged at levels that will bioaccumulate in aquatic resources to levels which are harmful to human health." *Id.* at 4-18. The Basin Plan includes a narrative oil and grease standard which states that "[w]aste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses." *Id.* at 4-15. The Basin Plan includes a narrative suspended and settleable solids standard which states that "waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses . . . ." *Id.* at 4-16. The Basin Plan includes a narrative floatables standard which states that "[w]aste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses." *Id.* at 4-11. The Basin Plan includes a narrative color standard which states that "[w]aste discharges shall not result in coloration of the receiving waters which causes a nuisance or adversely affect beneficial uses." *Id.* at 4-10. The Basin Plan includes a narrative turbidity standard which states that "inland

surface waters . . . shall be free of changes in turbidity which adversely affect beneficial uses. *Id.* at 4-18. The Basin Plan provides that "the pH of inland surface waters shall not be raised above 8.5 or depressed below 6.5…" *Id.* at 4-15. The Basin Plan also includes a Nitrate standard of 10 mg/L as Nitrogen. *Id.* at 4-14.

The Basin Plan also sets out numeric water quality standards for Reach 3 of the Santa Ana River, and includes a Site Specific Objective ("SSO") of 0.0182 mg/L for copper and 0.0041 mg/L for lead.[2]

The EPA has adopted freshwater numeric water quality standards for zinc of 0.120 mg/L (Criteria Maximum Concentration – "CMC"), for copper of 0.013 mg/L (CMC) and for lead of 0.065 mg/L (CMC). 65 Fed.Reg. 31712 (May 18, 2000) (California Toxics Rule).[3]

The 2008-2010 EPA 303(d) List of Water Quality Limited Segments lists Reach 3 of the Santa Ana River – into which the Facility's storm water is discharged – as impaired for copper. *See* http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/impaired_waters_list/2008_2010_usepa_303dlist/20082010_usepa_aprvd_303dlist.pdf. In October 2011, EPA added additional waters to the 303(d) list, including the addition of Reach 3 of the Santa Ana River as impaired for lead. See http://www.epa.gov/region9/water/tmdl/303d-pdf/Final-DecisLtrEnclosResponsSumCA2008-10-303d.pdf

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (hereinafter "**BAT**") and best conventional pollutant control technology (hereinafter "**BCT**").[4] The following benchmarks have been established for pollutants discharged by Wilden Pump: Total Suspended Solids (TSS) – 100 mg/L, oil and grease – 15.0 mg/L ("O&G"), pH – 6-9 s.u., lead (Pb) – 0.095 mg/L, zinc (Zn) – 0.13 mg/L, aluminum (Al) – 0.75 mg/L, copper (Cu) – 0.0.0156 mg/L.[5] U.S. Environmental Protection

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[2] The SSO for copper and for lead is expressed as a function of total hardness (mg/L) in the water body, and corresponds to a total hardness of 200 mg/L.

[3] These values for zinc, copper and lead are also hardness dependent, and correspond to a total hardness of 100-125 mg/L, which is the default listing in the California Toxics Rule.

[4] The Benchmark Values can be found at: http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf and http://cwea.org/p3s/documents/multi-sectorrev.pdf (Last accessed on November 21, 2014).

[5] The benchmark values for lead, copper and zinc are hardness dependent. The values here are based on a hardness range of 100-125 mg/L $CaCO_3$, which is the default listing in the California Toxics Rule.

Agency, Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (2009) 52 (hereinafter "**MSGP**").

II. ALLEGED VIOLATIONS OF THE NPDES PERMIT.

a. Discharges In Violation Of The Permit Not Subjected To BAT/BCT.

Wilden Pump has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are Total Suspended Solids, Oil and Grease, pH, Biochemical Oxygen Demand, and Fecal Coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.* §§ 401.15, 401.16.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Wilden Pump has discharged and continues to discharge storm water with unacceptable levels of TSS, pH, Lead, Zinc, Aluminum, Copper and other pollutants in violation of the General Permit. Wilden Pump's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed

"conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan, evidencing past and ongoing violations of General Permit Discharge Prohibitions A(1) and A(2), Effluent Limitation B(3) and Receiving Water Limitations C(1) and C(2).

Date	**Parameter**	**Observed Concentration**	**Basin Plan or EPA Water Quality Standard**	**Outfall (as identified by the Facility)**
11/8/2012	pH	6.4 s.u.	6.5-8.5 s.u.	S-3
10/9/2013	Zinc	1.4 mg/L	0.12 mg/L (CMC)	S-1
10/9/2013	Zinc	1.2 mg/L	0.12 mg/L (CMC)	S-2
10/9/2013	Zinc	4.1 mg/L	0.12 mg/L (CMC)	S-3
10/9/2013	Zinc	2.9 mg/L	0.12 mg/L (CMC)	S-4
2/8/2013	Zinc	0.3 mg/L	0.12 mg/L (CMC)	S-1
2/8/2013	Zinc	0.52 mg/L	0.12 mg/L (CMC)	S-2
2/8/2013	Zinc	0.48 mg/L	0.12 mg/L (CMC)	S-3
2/8/2013	Zinc	0.41 mg/L	0.12 mg/L (CMC)	S-4
11/8/2012	Zinc	0.59 mg/L	0.12 mg/L (CMC)	S-1

11/8/2012	Zinc	1.0 mg/L	0.12 mg/L (CMC)	S-2
11/8/2012	Zinc	1.9 mg/L	0.12 mg/L (CMC)	S-3
11/8/2012	Zinc	1.5 mg/L	0.12 mg/L (CMC)	S-4
2/27/2012	Zinc	0.42 mg/L	0.12 mg/L (CMC)	S-1
2/27/2012	Zinc	0.45 mg/L	0.12 mg/L (CMC)	S-2
2/27/2012	Zinc	0.46 mg/L	0.12 mg/L (CMC)	S-3
2/27/2012	Zinc	51 mg/L	0.12 mg/L (CMC)	S-4
11/4/2011	Zinc	0.55 mg/L	0.12 mg/L (CMC)	S-1
11/4/2011	Zinc	0.49 mg/L	0.12 mg/L (CMC)	S-2
11/4/2011	Zinc	0.45 mg/L	0.12 mg/L (CMC)	S-3
11/4/2011	Zinc	0.50 mg/L	0.12 mg/L (CMC)	S-4
4/8/2011	Zinc	0.4 mg/L	0.12 mg/L (CMC)	S-1
4/8/2011	Zinc	1.0 mg/L	0.12 mg/L (CMC)	S-2

4/8/2011	Zinc	1.8 mg/L	0.12 mg/L (CMC)	S-3
4/8/2011	Zinc	1.3 mg/L	0.12 mg/L (CMC)	S-4
1/26/2010	Zinc	0.17 mg/L	0.12 mg/L (CMC)	S-1
1/26/2010	Zinc	0.19 mg/L	0.12 mg/L (CMC)	S-2
1/26/2010	Zinc	0.27 mg/L	0.12 mg/L (CMC)	S-3
1/26/2010	Zinc	0.25 mg/L	0.12 mg/L (CMC)	S-4
12/7/2009	Zinc	0.27 mg/L	0.12 mg/L (CMC)	S-1
12/7/2009	Zinc	0.25 mg/L	0.12 mg/L (CMC)	S-2
12/7/2009	Zinc	0.34 mg/L	0.12 mg/L (CMC)	S-3
12/7/2009	Zinc	0.44 mg/L	0.12 mg/L (CMC)	S-4
10/9/2013	Copper	0.24 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-1
10/9/2013	Copper	0.13 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-2
10/9/2013	Copper	0.24 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-3

10/9/2013	Copper	0.39 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-4
2/8/2013	Copper	0.061 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-1
2/8/2013	Copper	0.13 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-2
2/8/2013	Copper	0.044 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-3
2/8/2013	Copper	0.04 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-4
11/8/2012	Copper	0.14 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-1
11/8/2012	Copper	0.22 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-2
11/8/2012	Copper	0.14 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-3
11/8/2012	Copper	0.23 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-4
2/27/2012	Copper	0.065 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-1
2/27/2012	Copper	0.072 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-2
2/27/2012	Copper	0.034 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-3
2/27/2012	Copper	0.062 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-4

11/4/2011	Copper	0.10 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-1
11/4/2011	Copper	0.15 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-2
11/4/2011	Copper	0.037 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-3
11/4/2011	Copper	0.055 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-4
4/8/2011	Copper	0.13 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-1
4/8/2011	Copper	0.21 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-2
4/8/2011	Copper	0.09 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-3
4/8/2011	Copper	0.087 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-4
1/26/2010	Copper	0.079 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-1
1/26/2010	Copper	0.066 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-2
1/26/2010	Copper	0.031 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-3
1/26/2010	Copper	0.037 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-4
2/7/2009	Copper	0.072 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-1

2/7/2009	Copper	0.069 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-2
2/7/2009	Copper	0.033 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-3
2/7/2009	Copper	0.07 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-4
2/5/2009	Copper	0.21 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-1
2/5/2009	Copper	0.15 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-2
2/5/2009	Copper	0.26 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-3
2/5/2009	Copper	0.068 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-4
12/22/2008	Copper	0.10 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-1
12/22/2008	Copper	0.13 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	S-2
10/9/2013	Lead	0.11 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	S-1
10/9/2013	Lead	0.20 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	S-4
2/5/2009	Lead	0.072 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	S-1

2/8/2013	Narrative	Floating materials, suspended materials, and oil/grease sheen were observed	Basin Plan at 4-11; Basin Plan at 4-15	S-1
2/8/2013	Narrative	Floating materials and oil/grease sheen were observed	Basin Plan at 4-11; Basin Plan at 4-15	S-2
2/8/2013	Narrative	Floating materials, suspended materials, and oil/grease sheen were observed	Basin Plan at 4-11; Basin Plan at 4-15	S-3
2/8/2013	Narrative	Floating materials and suspended materials were observed	Basin Plan at 4-11	S-4
11/8/2012	Narrative	Floating materials, cloudiness, and discoloration were observed	Basin Plan at 4-11; Basin Plan at 4-16	S-1
11/8/2012	Narrative	Floating materials, cloudiness, and discoloration were observed	Basin Plan at 4-11; Basin Plan at 4-16	S-2
11/8/2012	Narrative	Floating materials and discoloration were observed	Basin Plan at 4-11; Basin Plan at 4-16	S-3

11/8/2012	Narrative	Floating materials, cloudiness, and discoloration were observed	Basin Plan at 4-11; Basin Plan at 4-16	S-4
2/27/2012	Narrative	Floating materials, suspended materials, and oil/grease sheen were observed	Basin Plan at 4-11; Basin Plan at 4-15	S-1
2/27/2012	Narrative	Floating materials, suspended materials, and oil/grease sheen were observed	Basin Plan at 4-11; Basin Plan at 4-15	S-2
2/27/2012	Narrative	Floating materials were observed	Basin Plan at 4-11	S-4
11/4/2011	Narrative	Floating materials, Suspended materials, and oil/grease sheen were observed	Basin Plan at 4-11; Basin Plan at 4-15	S-1
11/4/2011	Narrative	Floating materials, Suspended materials, and oil/grease sheen were observed	Basin Plan at 4-11; Basin Plan at 4-15	S-2
1/26/2010	Narrative	Floating materials and leaf debris were observed	Basin Plan at 4-11	S-1

1/26/2010	Narrative	Floating materials, discoloration and leaf debris were observed	Basin Plan at 4-11; Basin Plan at 4-16	S-2
12/7/2009	Narrative	Oil/grease sheen, suspended materials, cloudiness, discolorations, floating materials and leaf debris were observed	Basin Plan at 4-11; Basin Plan at 4-15; Basin Plan at 4-16	S-1
12/7/2009	Narrative	Suspended materials, floating materials and leaf debris were observed	Basin Plan at 4-11	S-2
12/7/2009	Narrative	Suspended materials, floating materials and leaf debris were observed	Basin Plan at 4-11	S-3
12/7/2009	Narrative	Suspended materials, cloudiness, floating materials and leaf debris were observed	Basin Plan at 4-11; Basin Plan at 4-16	S-4

The information in the above table reflects data gathered from Wilden Pump's self-monitoring during the 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2013-2014 wet seasons. CCAEJ alleges that during each of these wet seasons and continuing through today, Wilden Pump has discharged storm water contaminated with pollutants at levels or observations that exceed or violate one or more applicable water quality standards, including but not limited to each of the following:

- pH – 6.5 – 8.5 s.u. (Basin Plan);

- Zinc – 0.12 mg/L (CMC);
- Copper – 0.0182 mg/L (SSO) / 0.013 mg/L (CMC);
- Lead - 0.0041 mg/L (SSO) / 0.065 mg/L (CMC);
- Floatables – Waste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses (Basin Plan at 4-11);
- Oil/Grease – Waste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses (Basin Plan at 4-15);
- Suspended/Settleable Solids – Waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses (Basin Plan at 4-16).

CCAEJ also alleges that elevated levels of copper present in the storm water discharges from the Facility flow into segments of the Santa Ana River, which is impaired for copper.

The following discharges of pollutants from the Facility contained concentrations of pollutants in excess of numeric water quality benchmarks established by EPA in the MGSP (**"EPA Benchmarks"**), evidencing past and ongoing violations of General Permit Discharge Prohibitions A(1) and A(2), Effluent Limitation B(3) and Receiving Water Limitations C(1) and C(2).

Date	**Parameter**	**Observed Concentration**	**EPA Benchmarks**	**Location (as identified by the Facility)**
10/9/2013	TSS	270 mg/L	100 mg/L	S-1
10/9/2013	TSS	550 mg/L	100 mg/L	S-2
10/9/2013	TSS	560 mg/L	100 mg/L	S-3
10/9/2013	TSS	990 mg/L	100 mg/L	S-4

11/8/2012	TSS	120 mg/L	100 mg/L	S-1
11/8/2012	TSS	140 mg/L	100 mg/L	S-2
2/27/2012	TSS	120 mg/L	100 mg/L	S-4
4/8/2011	TSS	110 mg/L	100 mg/L	S-2
4/8/2011	TSS	130 mg/L	100 mg/L	S-3
4/8/2011	TSS	130 mg/L	100 mg/L	S-4
10/9/2013	Zinc	1.4 mg/L	0.13 mg/L	S-1
10/9/2013	Zinc	1.2 mg/L	0.13 mg/L	S-2
10/9/2013	Zinc	4.1 mg/L	0.13 mg/L	S-3
10/9/2013	Zinc	2.9 mg/L	0.13 mg/L	S-4
2/8/2013	Zinc	0.3 mg/L	0.13 mg/L	S-1
2/8/2013	Zinc	0.52 mg/L	0.13 mg/L	S-2
2/8/2013	Zinc	0.48 mg/L	0.13 mg/L	S-3

2/8/2013	Zinc	0.41 mg/L	0.13 mg/L	S-4
11/8/2012	Zinc	0.51 mg/L	0.13 mg/L	S-1
11/8/2012	Zinc	1.0 mg/L	0.13 mg/L	S-2
11/8/2012	Zinc	1.9 mg/L	0.13 mg/L	S-3
11/8/2012	Zinc	1.5 mg/L	0.13 mg/L	S-4
2/27/2012	Zinc	0.42 mg/L	0.13 mg/L	S-1
2/27/2012	Zinc	0.45 mg/L	0.13 mg/L	S-2
2/27/2012	Zinc	0.46 mg/L	0.13 mg/L	S-3
2/27/2012	Zinc	51 mg/L	0.13 mg/L	S-4
11/4/2011	Zinc	0.55 mg/L	0.13 mg/L	S-1
11/4/2011	Zinc	0.49 mg/L	0.13 mg/L	S-2
11/4/2011	Zinc	0.45 mg/L	0.13 mg/L	S-3
11/4/2011	Zinc	0.50 mg/L	0.13 mg/L	S-4

4/8/2011	Zinc	0.4 mg/L	0.13 mg/L	S-1
4/8/2011	Zinc	1.0 mg/L	0.13 mg/L	S-2
4/8/2011	Zinc	1.8 mg/L	0.13 mg/L	S-3
4/8/2011	Zinc	1.3 mg/L	0.13 mg/L	S-4
1/26/2010	Zinc	0.17 mg/L	0.13 mg/L	S-1
1/26/2010	Zinc	0.19 mg/L	0.13 mg/L	S-2
1/26/2010	Zinc	0.27 mg/L	0.13 mg/L	S-3
1/26/2010	Zinc	0.25 mg/L	0.13 mg/L	S-4
12/7/2009	Zinc	0.27 mg/L	0.13 mg/L	S-1
12/7/2009	Zinc	0.25 mg/L	0.13 mg/L	S-2
12/7/2009	Zinc	0.34 mg/L	0.13 mg/L	S-3
12/7/2009	Zinc	0.44 mg/L	0.13 mg/L	S-4
10/9/2013	Copper	0.24 mg/L	0.0156 mg/L	S-1

10/9/2013	Copper	0.13 mg/L	0.0156 mg/L	S-2
10/9/2013	Copper	0.24 mg/L	0.0156 mg/L	S-3
10/9/2013	Copper	0.39 mg/L	0.0156 mg/L	S-4
2/8/2013	Copper	0.061 mg/L	0.0156 mg/L	S-1
2/8/2013	Copper	0.13 mg/L	0.0156 mg/L	S-2
2/8/2013	Copper	0.044 mg/L	0.0156 mg/L	S-3
2/8/2013	Copper	0.04 mg/L	0.0156 mg/L	S-4
11/8/2012	Copper	0.14 mg/L	0.0156 mg/L	S-1
11/8/2012	Copper	0.22 mg/L	0.0156 mg/L	S-2
11/8/2012	Copper	0.14 mg/L	0.0156 mg/L	S-3
11/8/2012	Copper	0.23 mg/L	0.0156 mg/L	S-4
2/27/2012	Copper	0.065 mg/L	0.0156 mg/L	S-1
2/27/2012	Copper	0.072 mg/L	0.0156 mg/L	S-2

2/27/2012	Copper	0.034 mg/L	0.0156 mg/L	S-3
2/27/2012	Copper	0.062 mg/L	0.0156 mg/L	S-4
11/4/2011	Copper	0.10 mg/L	0.0156 mg/L	S-1
11/4/2011	Copper	0.15 mg/L	0.0156 mg/L	S-2
11/4/2011	Copper	0.037 mg/L	0.0156 mg/L	S-3
11/4/2011	Copper	0.055 mg/L	0.0156 mg/L	S-4
4/8/2011	Copper	0.13 mg/L	0.0156 mg/L	S-1
4/8/2011	Copper	0.21 mg/L	0.0156 mg/L	S-2
4/8/2011	Copper	0.09 mg/L	0.0156 mg/L	S-3
4/8/2011	Copper	0.087 mg/L	0.0156 mg/L	S-4
1/26/2010	Copper	0.079 mg/L	0.0156 mg/L	S-1
1/26/2010	Copper	0.066 mg/L	0.0156 mg/L	S-2
1/26/2010	Copper	0.031 mg/L	0.0156 mg/L	S-3

1/26/2010	Copper	0.037 mg/L	0.0156 mg/L	S-4
12/7/2009	Copper	0.072 mg/L	0.0156 mg/L	S-1
12/7/2009	Copper	0.069 mg/L	0.0156 mg/L	S-2
12/7/2009	Copper	0.033 mg/L	0.0156 mg/L	S-3
12/7/2009	Copper	0.07 mg/L	0.0156 mg/L	S-4
10/9/2013	Lead	0.11 mg/L	0.095 mg/L	S-1
10/9/2013	Lead	0.20 mg/L	0.095 mg/L	S-4
10/9/2013	Aluminum	7.9 mg/L	0.75 mg/L	S-1
10/9/2013	Aluminum	9.7 mg/L	0.75 mg/L	S-2
10/9/2013	Aluminum	14 mg/L	0.75 mg/L	S-3
10/9/2013	Aluminum	19 mg/L	0.75 mg/L	S-4
2/8/2013	Aluminum	1.8 mg/L	0.75 mg/L	S-1
2/8/2013	Aluminum	2.5 mg/L	0.75 mg/L	S-2

2/8/2013	Aluminum	2.2 mg/L	0.75 mg/L	S-3
2/8/2013	Aluminum	1.8 mg/L	0.75 mg/L	S-4
11/8/2012	Aluminum	3.1 mg/L	0.75 mg/L	S-1
11/8/2012	Aluminum	3.4 mg/L	0.75 mg/L	S-2
11/8/2012	Aluminum	2.8 mg/L	0.75 mg/L	S-3
11/8/2012	Aluminum	3.4 mg/L	0.75 mg/L	S-4
2/27/2012	Aluminum	1.5 mg/L	0.75 mg/L	S-1
2/27/2012	Aluminum	1.5 mg/L	0.75 mg/L	S-2
2/27/2012	Aluminum	1.4 mg/L	0.75 mg/L	S-3
2/27/2012	Aluminum	2.1 mg/L	0.75 mg/L	S-4
11/4/2011	Aluminum	2.4 mg/L	0.75 mg/L	S-1
11/4/2011	Aluminum	2.3 mg/L	0.75 mg/L	S-2
11/4/2011	Aluminum	2.0 mg/L	0.75 mg/L	S-3

11/4/2011	Aluminum	2.5 mg/L	0.75 mg/L	S-4
4/8/2011	Aluminum	2.0 mg/L	0.75 mg/L	S-1
4/8/2011	Aluminum	3.6 mg/L	0.75 mg/L	S-2
4/8/2011	Aluminum	3.0 mg/L	0.75 mg/L	S-3
4/8/2011	Aluminum	3.4 mg/L	0.75 mg/L	S-4
1/26/2010	Aluminum	1.0 mg/L	0.75 mg/L	S-4
12/7/2009	Aluminum	0.98 mg/L	0.75 mg/L	S-1

The information in the above table reflects data gathered from Wilden Pump's self-monitoring during the 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2013-2014 wet seasons. CCAEJ alleges that during each of those rainy seasons and continuing through today, Wilden Pump has discharged storm water contaminated with pollutants that exceed one or more applicable EPA Benchmarks, including, but not limited to, each of the following:

- Total Suspended Solids – 100 mg/L;
- Zinc – 0.13 mg/L;
- Copper – 0.0156 mg/L;
- Lead – 0.095 mg/L; and
- Aluminum – 0.75 mg/L.

CCAEJ's investigation, including its review of Wilden Pump's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and the EPA's benchmark values, indicate that Wilden Pump has not implemented BAT and BCT at the facility for its discharges of TSS, Zinc, Copper, Lead, Aluminum and other pollutants in violation of Effluent Limitation B(3) of the General Permit.

Wilden Pump was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Wilden Pump is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed in the table above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CCAEJ alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since at least November 21, 2009 and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CCAEJ alleges that Wilden Pump has discharged storm water containing impermissible levels of TSS, Zinc, Copper, Lead, Aluminum and other pollutants in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit.[6]

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the CWA, Wilden Pump is subject to penalties for violations of the General Permit and the Act since November 21, 2009.

b. Failure To Develop And Implement An Adequate Monitoring And Reporting Program.

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event."

The above-referenced data was obtained from the Facility's monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent

[6] The rain dates are all the days when an average of 0.1 or more rain fell as measured by a weather station located in Riverside approximately 8 miles away. Data from the weather station is available at http://www.ipm.ucanr.edu/WEATHER/SITES/riverside.html (Last accessed on November 21, 2014). The rain dates also include days when the Facility reported a discharge in its Annual Reports.

Limitations in the General Permit. To the extent the storm water data collected by Wilden Pump is not representative of the quality of the Facility's various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, CCAEJ alleges that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

CCAEJ alleges that Wilden Pump failed to sample two storm events during the 2010-2011 and 2013-2014 wet seasons, despite their being numerous rain events that met the criteria requiring stormwater sampling.

CCAEJ also alleges on information and belief that Wilden Pump failed to conduct visual observations in March 2010, November 2010, December 2010, January 2011, February 2011, March 2011, May 2011, October 2011, December 2011, January 2012, March 2012, April 2012, October 2012, December 2012, January 2013, March 2013 and May 2013, claiming that there were no qualifying rain events when in fact there were numerous such events during these periods.

The above violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Wilden Pump is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since November 21, 2009.

c. Failure To Prepare, Implement, Review and Update An Adequate Storm Water Pollution Prevention Plan.

Section A and Provision E(2) of the General Industrial Storm Water Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan (hereinafter "**SWPPP**") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices (hereinafter "**BMPs**") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity

(General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)). The SWPPP must also include a certification statement and signature (General Permit, Section C(10)).

CCAEJ's investigation of the conditions at the Facility as well as Wilden Pump's Annual Reports indicate that Wilden Pump has been operating with an inadequately developed SWPPP in violation of the requirements set forth above. Wilden Pump has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Wilden Pump has been in continuous violation of Section A and Provision E(2) of the General Permit every day since November 21, 2009, at the very latest, and will continue to be in violation every day that Wilden Pump fails to prepare, implement, review, and update an effective SWPPP. Wilden Pump is subject to penalties for violations of the Order and the Act occurring since November 21, 2009.

d. <u>Failure To File True And Correct Annual Reports</u>.

Section B(14) of the General Industrial Storm Water Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), C(10). Section A(9)(d) of the General Industrial Storm Water Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm Water Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

During the 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2013-2014 wet seasons, Wilden Pump inaccurately certified in the Annual Report that the facility was in compliance with the General Permit. Consequently, Wilden Pump has violated Sections A(9)(d), B(14), C(9) and C(10) of the General Industrial Storm Water Permit every time Wilden Pump failed to submit a complete or correct report and every time Wilden Pump or its agents failed to comply with the Act. Wilden Pump is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since November 21, 2009.

III. Persons Responsible For the Violations.

CCAEJ puts Dover Corporation, Wilden Pump & Engineering, Robert Livingston and Robert Miller on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CCAEJ puts Dover Corporation, Wilden Pump & Engineering, Robert Livingston and Robert Miller on notice that it intends to include those persons in this action.

IV. Name And Address Of Noticing Parties.

The name, address and telephone number of CCAEJ is as follows:

Penny Newman
Executive Director
Center for Community Action and Environmental Justice
P.O. Box 33124
Jurupa Valley, CA 92519
Tel. (951) 360-8451

V. Counsel.

CCAEJ has retained counsel to represent it in this matter. Please direct all communications to:

Gideon Kracov
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801 South Grand Avenue
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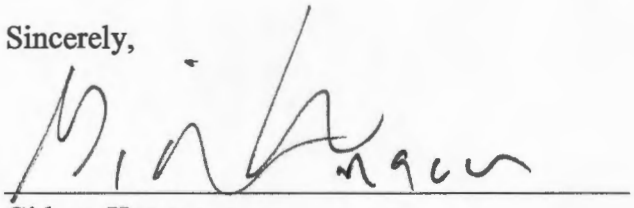
VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Wilden Pump to a penalty of up to $37,500 per day per violation. In addition to civil penalties, CCAEJ will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. §1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CCAEJ believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CCAEJ intends to file a citizen suit under Section 505(a) of the Act against Wilden Pump and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CCAEJ would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CCAEJ suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. CCAEJ does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



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*Served via Certified Mail, Return Receipt Requested.

ATTACHMENT A

Rain Dates, Wilden Pump & Engineering, Grand Terrace, California

11/28/2009	12/7/2009	12/12/2009
12/13/2009	1/17/2010	1/18/2010
1/19/2010	1/20/2010	1/21/2010
1/22/2010	1/26/2010	2/5/2010
2/6/2010	2/09/2010	2/22/2010
2/27/2010	3/04/2010	3/06/2010
4/05/2010	4/12/2010	4/20/2010
4/22/2010	11/08/2010	11/20/2010
11/21/2010	11/24/2010	12/05/2010
12/06/2010	12/16/2010	12/18/2010
12/19/2010	12/20/2010	12/21/2010
12/22/2010	12/25/2010	12/29/2010
1/02/2011	1/03/2011	1/30/2011
2/16/2011	2/18/2011	2/19/2011
2/25/2011	2/26/2011	3/20/2011
3/21/2011	3/23/2011	4/08/2011
5/18/2011	7/31/2011	10/05/2011
11/04/2011	11/06/2011	11/12/2011
11/20/2011	12/12/2011	1/21/2012
1/23/2012	2/15/2012	2/27/2012
3/17/2012	3/18/2012	4/11/2012
4/13/2012	4/25/2012	4/26/2012
8/30/2012	10/11/2012	11/08/2012

12/12/2012	12/13/2012	12/24/2012
12/29/2012	1/24/2013	1/25/2013
2/08/2013	2/19/2013	3/08/2013
3/09/2013	5/06/2013	7/20/2013
10/09/2013	11/21/2013	12/07/2013
2/06/2014	2/28/2014	3/01/2014
4/01/2014	4/02/2014	4/25/2014